IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 30829 of 2007(T)

PETITIONERS:
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1. **JOSEPH, THUNDIPARAMBU HOUSE,**
   PALLINADA ROAD, MARADU.

2. **YUSEF, S/O VAVA, KATTUPURATHU HOUSE**
   KUTHAPPADI,KOCHI -32.

3. **HAMSA, S/O IBRAHIMKUTTY,**
   KATTAPPALLIPARAMBI, THAMMANAM,KOCHI.

4. **P.O.LONAPPAN, S/O OUSEPH, PADASSERI**
   HOUSE, B.M.C. P.O., KOCHI -21.

5. **B.L. CLEETUS, S/O LASAN,**
   BAVAKKADU HOUSE, P.O.PALLURUTHY,
   KOCHI-6.

6. **T.N.SANADHANAN, S/O NARAYANAN,**
   KATTUMPURATHU HOUSE
   THEVARA COLONY, PERUMANOOR.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS:
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1. **AIROPORTS AUTHORITY OF INDIA,**
   REPRESENTED BY ITS REGIONAL EXECUTIVE DIRECTOR
   CHENNAI-27.

2. **THE COHIN INTERNATIONAL AIRPORT**
   AUTHORITY LTD., REPRESENTED BY ITS MANAGING
   DIRECTOR, KOCHI.

3. **THESENIOR AERODROME OFFICER**
   COCHIN CIVIL ENCLAVE, NATIONAL
   AIRPORT AUTHORITY, W/ISLAND, KOCHI.

4. STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, SECRETARY, THIRUVANANTHAPURAM.

5. A.K.CHANDRAN, W/O KESAVAN, KANNOTHPARAMBIL HOUSE, VYTTILA P.O., PONNURUNNI, KOCHI.

6. M.T. JOHN, S/O THOMAS,MATTAMMACHIRAYIL HOUSE,THOPPUMPADY P.O., COCHIN -5.

7. P.C. PAUL, POTHAMPALLY HOUSE, NAMBYAPURA ROAD, PALLURUTHI, COCHIN -6.

8. T.K. KOYA, S/O KUNJUMUHAMMED, THANATHPARAMBIL HOUSE, PALLURUTHI, COHIN -6.

9. P.S.NANDANAN, PADINJARENIKATHIL HOUSE PAI ROAD, PERUMBADAPPU, PALLURUTHI, KOCHI.

10. R.M. UMMAR, RAMARACKAL HOUSE A.K.G. ROAD, NAMBIAPURAM, PALLURUTHI, COCHIN -6.

11. P.S. SHAMSUDEEN, S/OMUHAMMED, KALAMBATTU HOUSE,MARUVANTHURUTHU, VAIKOM.

12. K.A. JOHN, S/O ANTHAPPAN, KIZHAPPALLY HOUSE, PANANGADU P.O., COCHIN -13.

13. P.T. DEVASSI PUTHANVEEDU, KARSHAKA ROAD,

14. T.A. MANI, THEKKETHALATH HOUSE, MELKAVU TEMPLE ROAD, KANDANADU P.O., KUREEKADU.

15. A.K. VIJAYAN, S/O KUMARAN, ANJALI BHAVAN MANNIPARAMBIL ROAD, MARADU P.O., ERNAKULAM.

16. M.S. PRAKASAN, MANAKAMADAM, PALLURUTHI, KOCHI -6.

17. R.SADANSANDAN,P.D. ROAD, PALLURUTHI, COCHIN -6.

BY ADV. SMT.T.N.GIRIJA, SC, COCHIN I AIRPORT LT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 30829 OF 2007 T
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Dated this the 14th day of December, 2007

J U D G M E N T

The petitioners have filed this writ petition praying to declare that the decision of the 2nd respondent to issue pre-paid taxi permit to respondents 5 to 17 is illegal. They are also seeking an order restraining the 2nd respondent from issuing further pre-paid taxi permits.

2. Petitioners claim to be the taxi drivers at the Kochi Airport, which was later on shifted to the premises of the 2nd respondent. It is stated that they were not permitted to ply their taxi cars in the New International Airport at Nedumbassery and that led to several discussions and finally an understanding was reached that the 2nd respondent will provide taxi permits to the ex-drivers of the Cochin Airport. It was sometime around that period, that a writ petition was filed in this court by persons similarly situated claiming that they should also be given preference in the matter of issuance of taxi permits in the

International Airport and that writ petition was disposed of by Ext.P1 judgment in the following terms.

> It is submitted that these respondents have issued a press release in six dailies viz. The Mathrubhumi dated 15.7.07, the Malayala Manorama dated 16.07.2007, the Veekshanam dated 15.07.2007, the Deepika dated 15.07.2007, the Deshabhimani dated 15.07.2007 and the New Indian Express dated 16.07.2007 directing all taxi drivers who were operating taxies in the old Cochin Airport to appear before the 3rd respondent and to produce documents to prove their identity as drivers at the Old Cochin Airport as also other necessary documents like driving licence and other certificates relating to the taxi. The dates fixed for such appearance are 1.8.2007 to 4.8.2007. True copy of the paper publication taken out in the six dailies is produced herewith and marked as Ext.R2 (a). The claim of the taxi drivers of the old Cochin airport are considered in the light of the judgment of this Hon'ble Court in O.P.No.24748/99 produced as Ext.P1 in W.P(c) No.11729/2006 filed by person claiming to be the taxi drivers at the old Cochin Airport.

It is stated that despite this, their claim was being overlooked and a writ petition was again filed in this court as WPC 11729/06. Ext.P3 is an affidavit filed by party respondent in that case, in which they had made a disclosure that a selection process was already held. It was also stated that they have been called for interview and that after getting orders from the respondents, many of them had purchased even taxi cars availing of financial

assistance from banks and other institutions.

3. It is stated that by July 2007, Ext.P4 advertisement was issued by the 2nd respondent inviting applications from persons like the petitioners for issue of taxi passes. At about the same time, WP(C) No.11729/06 was filed, which was disposed of by Ext.P2 judgment recording the submission made in the statement filed. It is stated that the claim of taxi drivers of the old Cochin Airport have been considered in the light of Ext.P1 judgment of this court and such assertion made in the counter affidavit filed has been recorded in the judgment also. It is stated that even thereafter, preference as conceded in their favour was not granted and that a batch of persons were appointed even without any selection process. It is in this factual background this writ petition was filed by the petitioners praying for the reliefs that are mentioned in the earlier part of this judgment.

4. According to the counter affidavit that is filed on behalf of the respondents, it is on account of the ineligibility of the petitioners that they could not get accommodation when taxi

permits were issued. It is not as though the 2nd respondent is contesting, the averment of the petitioners is that they were eligible for preference in the matter of issue of taxi permits. On the other hand, what they say is that for the issue of taxi permits, they had fixed two eligibility criteria, one is that the taxi drivers should have own vehicles of less than five years old and that they should be in possession of A class pass. It is the contention of the 2nd respondent that it is only on account of the fact that the petitioners did not satisfy these two eligibility criteria, that they could not be considered for issue of passes. It is also stated that the allegations in the writ petition that the party respondents and others were issued taxi permits ignoring the eligibility fixed is incorrect. The 2nd respondent would reiterate that all those persons who were issued taxi permits had satisfied the eligibility that was fixed by the 2nd respondent.

5. Though the controversy is regarding the entitlement or otherwise of the petitioners to get taxi passes issued, in my view, issue lies in a very narrow compass and that is regarding the eligibility of the petitioners. As employer, it is always open to the

2nd respondent to fix the eligibility criteria for the issue of taxi passes. Although that freedom is available to the 2nd respondent, 2nd respondent is equally bound to uniformly comply with such eligibility norms that it has fixed. The question is whether the petitioners satisfy the eligibility so fixed by the 2nd respondent and whether the 2nd respondent has uniformly followed the eligibility set by it.

6. In so far as the eligibility of the petitioners is concerned, petitioners do not contend that they had satisfied the requirement of owning taxi vehicles of less than five years old. Therefore, the fact that the petitioners do not satisfy the eligibility criteria is not in controversy. Their only contention is that there are others, who have been issued taxi passes who do not satisfy this condition and therefore there is no reason for insisting that the petitioners alone should satisfy these conditions. The averment that in the case of others, the condition of ownership of taxi cars has not been insisted upon is denied by the respondents. In view of this and since the petitioners have not placed any material to accept their

contention to the contrary, I am inclined to accept the plea raised by the respondents. Therefore, in view of the fact that the petitioners do not satisfy the eligibility conditions of ownership of taxi cars and since the eligibility set by the 2nd respondent has been uniformly followed by it, I can only uphold the action of the respondents in declining taxi passes to the petitioners.

In view of this, I do not find any irregularity in the action of the respondents and therefore the writ petition will stand dismissed without any order as to costs.

ANTONY DOMINIC, JUDGE.

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